



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,090	07/22/2003	George A. Scheele	JHU1710-4	8783
28213	7590	02/05/2008	EXAMINER	
DLA PIPER US LLP 4365 EXECUTIVE DRIVE SUITE 1100 SAN DIEGO, CA 92121-2133			LE, EMILY M	
			ART UNIT	PAPER NUMBER
			1648	
			MAIL DATE	DELIVERY MODE
			02/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10625090	7/22/03	SCHEELE ET AL.	JHU1710-4

EXAMINER

Emily Le

ART UNIT	PAPER
----------	-------

1648 20080129

DATE MAILED:

Commissioner for Patents

1. Newly submitted claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally elected invention is directed to a method of treating viral, HSV-1 infection in a mammal with the administration of a cholesterol sequestering agent; whereas, the newly submitted claims, as presented, are directed to a method of reducing viral load of a herpes infection in an interstitial space of a mammal with the administration of beta-cyclodextrin and measuring the reduction of the viral load.

2. These inventions are directed to related processes. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have differing mode of operation and effect, as summarized above. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

3. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, the claims are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

/Emily M. Le/
Patent Examiner
Art Unit 1648